Gerard H. Hanson, Esquire
Hill Wallack LLP
Attorneys at Law
CN 5226
202 Carnegie Center
Princeton, NJ 08543-5226
(609) 924-0808
Attorneys for Defendants
Menu Foods Limited
Menu Foods, Inc., and
Menu Foods Midwest Corporation

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

OLIVIA GUERCIONI, individually and on behalf of all others similarly situated, Plaintiff, v. MENU FOODS LIMITED, d.b.a. MENU FOODS, MENU FOODS, INC., MENU FOODS MIDWEST CORPORATION, and JOHN DOES 1-10, ABC Corps 1-15 (Fictitious Names) Defendants	Civil Action No.: - NOTICE OF REMOVAL

TO: Keith T. Smith, Esquire
Law Offices of Keith T. Smith
Suite 202 Ridgewood Plaza
2327 New Road
Northfield, NJ 08225
Attorneys for Plaintiff

Dockets.Justia.com

PLEASE TAKE NOTICE that the defendants - Menu Foods Limited t/a Menu Foods, a Canadian business entity, and Menu Foods, Inc. t/a/ Menu Foods, a New Jersey Corporation - hereby file this Notice of Removal of the plaintiff's Class Action Complaint from the Superior Court of New Jersey to the Camden Vicinage of the United States District Court for the District of New Jersey. This Notice of Removal is pursuant to 28 U.S.C. Sections 1441 and 1446 and 1453. In support of this Notice of Removal, the defendants hereby represent as follows:

1. The plaintiff's Class Action Complaint alleges that their dog became ill as a result of a consumption of pet food manufactured by Menu Foods at its Pennsauken, New Jersey location. The Complaint seeks certification on behalf of individuals similarly situated, which plaintiff estimates to be a Class of at least 20,000.

2. The Complaint was served on April 18, 2007. Pursuant to 28 U.S.C. § 1441, this Notice of Removal is timely filed, as it is being filed within 30 days of defendant's service of the Summons and Complaint.

3. This action is being removed pursuant to 28 U.S.C. § 1453, captioned "Removal of Class Actions," which provides in pertinent part that "a Class Action may be removed to a District Court of the United States in accordance with § 1446...without regard to whether any defendant is a citizen of the State in which the action is brought...." The defendant further notes that this removal is in accordance with the Class Action Fairness Act.

4. The plaintiff's Complaint, which identifies a Class in excess of 20,000 individuals, including damages for the value of deceased pets, as well as veterinary costs and other incidental expenses, asserts claims that exceed the jurisdictional amount of $5,000.

5. This lawsuit is one of over 70 Class Action Complaints that have been filed as a result of the allegations set forth in plaintiff's Complaint. As of the filing of this Notice of Removal, 29 Class Action Complaints have been docketed with the United States District Court for the District of New Jersey. Each of these matters has been assigned to the Honorable Noel L. Hillman, who executed an Order, dated May 2, 2007, staying all lawsuits pending resolution by the Judicial Panel on Multi-District Litigation of multiple pending Motions seeking to consolidate and transfer all class actions throughout the nation to one district. The majority of the plaintiffs seek transfer to the United States District Court for the District of New Jersey, while the defendants seek transfer to the District of Illinois.

WHEREFORE, the defendants, Menu Foods Limited and Menu Foods, Inc., request that this court enter an Order removing the case from the Superior Court of New Jersey – Camden County to the United States District Court for the District of New Jersey.

HILL WALLACK LLP

BY: Gerard H Hanson
Gerard H. Hanson
Attorneys for Defendants

Dated: May 9 , 2007